

1 **SENATE FLOOR VERSION**

2 March 25, 2013

3 ENGROSSED HOUSE
4 BILL NO. 1081

By: Sanders of the House

5 and

6 Marlatt of the Senate

7
8 An Act relating to Public Competitive Bidding Act of
9 1974; amending 61 O.S. 2011, Section 121, as amended
10 by Section 315, Chapter 304, O.S.L. 2012 (61 O.S.
11 Supp. 2012, Section 121), which relates to change
12 orders to public construction contracts; modifying
13 approval requirements for certain change orders; and
14 providing an effective date.

15 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

16 SECTION 1. AMENDATORY 61 O.S. 2011, Section 121, as
17 amended by Section 315, Chapter 304, O.S.L. 2012 (61 O.S. Supp.
18 2012, Section 121), is amended to read as follows:

19 Section 121. A. Change orders or addenda to public
20 construction contracts of One Million Dollars (\$1,000,000.00) or
21 less shall not exceed a fifteen percent (15%) cumulative increase in
22 the original contract amount.

23 B. Change orders or addenda to public construction contracts of
24 over One Million Dollars (\$1,000,000.00) shall not exceed the

1 greater of One Hundred Fifty Thousand Dollars (\$150,000.00) or a ten
2 percent (10%) cumulative increase in the original contract amount.

3 C. Change orders or cumulative change orders which exceed the
4 limits of subsection A or B of this section shall require a
5 readvertising for bids on the incomplete portions of the contract.

6 D. If the awarding public agency does not have a governing
7 body, the chief administrative officer of the awarding public agency
8 shall approve change orders. The State Construction Administrator
9 of the Construction and Properties Division of the Office of
10 Management and Enterprise Services, or the Administrator's designee,
11 shall sign and execute all contracts and change orders, as they
12 relate to state agencies.

13 E. If the awarding public agency has a governing body, all
14 change orders shall be formally approved by the governing body of
15 the awarding public agency and the reasons for approval recorded in
16 the permanent records of the governing body. The governing body of
17 a municipality or technology center may delegate approval of change
18 orders up to Forty Thousand Dollars (\$40,000.00) or ten percent
19 (10%) of any contract, whichever is less, to the chief
20 administrative officer of the municipality or technology center or
21 their designee, with any approved change orders reported to the
22 governing body at the next regularly scheduled meeting.

23 F. The governing body of the Oklahoma Tourism and Recreation
24 Department is authorized, upon approval of a majority of all of the

1 members of the Oklahoma Tourism and Recreation Commission, to
2 delegate to the Director of the agency the authority to approve
3 change orders on a construction contract provided that the
4 individual change order does not exceed Twenty-five Thousand Dollars
5 (\$25,000.00) in expenditure and complies with the limits established
6 by this section. The Administrator of the Division shall sign and
7 execute all contracts and change orders.

8 G. The Transportation Commission may, by rule, authorize the
9 Director of the Department of Transportation to approve change
10 orders in an amount of not to exceed Five Hundred Thousand Dollars
11 (\$500,000.00). Change orders approved by the Director shall be
12 presented to the Transportation Commission during the next regular
13 meeting and the reasons therefor recorded in the permanent records.
14 The Oklahoma Turnpike Authority may authorize the Director of the
15 Authority to approve change orders in an amount not to exceed Two
16 Hundred Fifty Thousand Dollars (\$250,000.00). Change orders
17 approved by the Director of the Authority shall be presented to the
18 Authority during the next regular meeting and the reasons for the
19 orders recorded in permanent records.

20 H. All change orders for the Department of Transportation or
21 the Authority shall contain a unit price and total for each of the
22 following items:

23 1. All materials with cost per item;

24

1 2. Itemization of all labor with number of hours per operation
2 and cost per hour;

3 3. Itemization of all equipment with the type of equipment,
4 number of each type, cost per hour for each type, and number of
5 hours of actual operation for each type;

6 4. Itemization of insurance cost, bond cost, social security,
7 taxes, workers' compensation, employee fringe benefits and overhead
8 cost; and

9 5. Profit for the contractor.

10 I. 1. If a construction contract contains unit pricing, and
11 the change order pertains to the unit price, the change order will
12 not be subject to subsection A or B of this section.

13 2. When the unit price change does not exceed ~~Ten Thousand~~
14 ~~Dollars (\$10,000.00)~~ Twenty Thousand Dollars (\$20,000.00), the unit
15 price change order computation may be based on an acceptable unit
16 price basis in lieu of cost itemization as required in paragraphs 1,
17 2, 3, 4 and 5 of subsection H of this section.

18 3. When the unit price change exceeds Twenty Thousand Dollars
19 (\$20,000.00), any unit price for a new item established at, or below
20 the average eighteen-month-price history for the new item may be
21 used in lieu of cost itemization as required in paragraphs 1, 2, 3,
22 4 and 5 of subsection H of this section.

23 J. Alternates or add items bid with the original bid and
24 contained in the awarded contract as options of the awarding public

1 agency shall not be construed as change orders under the provisions
2 of the Public Competitive Bidding Act of 1974.

3 SECTION 2. This act shall become effective November 1, 2013.

4 COMMITTEE REPORT BY: COMMITTEE ON GENERAL GOVERNMENT
5 March 25, 2013 - DO PASS
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